

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WAYMOND B. SMITH, : Case No. 3:12-cv-274
Petitioner, : Judge Timothy S. Black
vs. : Magistrate Judge Michael R. Merz
WARDEN, Warren Correctional :
Institution, :
Respondent. :
:

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE
(Doc. 3); (2) DISMISSING PETITIONER'S PETITION WITH PREJUDICE;
(3) DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY;
(4) CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVE FRIVOLOUS;
AND (5) TERMINATING THIS CASE**

This case is before the Court on the Report and Recommendations of the United States Magistrate Judge Michael R. Merz, filed August 13, 2012. (Doc. 3). The Magistrate Judge concludes that Petitioner's Petition for Writ of Habeas Corpus should be denied, a certificate of appealability should not be granted and that the Court certify that any appeal would be objectively frivolous. (Doc. 3). Petitioner, despite being granted an extension of time, filed no objections to the Report and Recommendations and the time for doing so has expired. Accordingly, Petitioner has waived any objections to the Report and Recommendations. *See Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984).

As required by 29 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* the substantive filings in this case. Based upon the reasoning and citations of authority set

forth in the Magistrate Judge's Report and Recommendations (Doc. 3) and the Court's *de novo* review, the Court: (1) **ADOPTS** the Report and Recommendations of the United States Magistrate Judge (Doc. 3) in its entirety; (2) **DENIES** and **DISMISSES** Petitioner's Petition for Writ of Habeas Corpus with prejudice; (3) **DENIES** any request for a certificate of appealability under 28 U.S.C. § 2253(c); (4) **CERTIFIES** that any appeal would be objectively frivolous and **DENIES** any request for leave to appeal *in forma pauperis*; and (5) **TERMINATES** this case on the Court's docket.

IT IS SO ORDERED.

Date: 11/7/12

Timothy S. Black
Timothy S. Black
United States District Judge